

SHB 1054 - S COMM AMD  
By Committee on Judiciary

ADOPTED 04/05/2005

1 Strike everything after the enacting clause and insert the  
2 following:

3 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions set forth in  
4 this section apply throughout this chapter.

5 (1) "Arbitration organization" means a neutral association, agency,  
6 board, commission, or other entity that initiates, sponsors, or  
7 administers arbitration proceedings or is involved in the appointment  
8 of arbitrators.

9 (2) "Arbitrator" means an individual appointed to render an award  
10 in a controversy between persons who are parties to an agreement to  
11 arbitrate.

12 (3) "Authenticate" means:

13 (a) To sign; or

14 (b) To execute or adopt a record by attaching to or logically  
15 associating with the record, an electronic sound, symbol, or process  
16 with the intent to sign the record.

17 (4) "Court" means a court of competent jurisdiction in this state.

18 (5) "Knowledge" means actual knowledge.

19 (6) "Person" means an individual, corporation, business trust,  
20 estate, trust, partnership, limited liability company, association,  
21 joint venture, or government; governmental subdivision, agency, or  
22 instrumentality; public corporation; or any other legal or commercial  
23 entity.

24 (7) "Record" means information that is inscribed on a tangible  
25 medium or that is stored in an electronic or other medium and is  
26 retrievable in perceivable form.

27 NEW SECTION. **Sec. 2.** NOTICE. Unless the parties to an agreement  
28 to arbitrate otherwise agree or except as otherwise provided in this  
29 chapter, a person gives notice to another person by taking action that

1 is reasonably necessary to inform the other person in ordinary course,  
2 whether or not the other person acquires knowledge of the notice. A  
3 person has notice if the person has knowledge of the notice or has  
4 received notice. A person receives notice when it comes to the  
5 person's attention or the notice is delivered at the person's place of  
6 residence or place of business, or at another location held out by the  
7 person as a place of delivery of such communications.

8 NEW SECTION. **Sec. 3.** WHEN CHAPTER APPLIES. (1) Before July 1,  
9 2006, this chapter governs agreements to arbitrate entered into:

- 10 (a) On or after the effective date of this act; and
- 11 (b) Before the effective date of this act, if all parties to the  
12 agreement to arbitrate or to arbitration proceedings agree in a record  
13 to be governed by this chapter.

14 (2) On or after July 1, 2006, this chapter governs agreements to  
15 arbitrate even if the arbitration agreement was entered into before the  
16 effective date of this act.

17 (3) This chapter does not apply to any arbitration governed by  
18 chapter 7.06 RCW.

19 (4) This chapter does not apply to any arbitration agreement  
20 between employers and employees or between employers and associations  
21 of employees.

22 NEW SECTION. **Sec. 4.** EFFECT OF AGREEMENT TO ARBITRATE--  
23 NONWAIVABLE PROVISIONS. (1) Except as otherwise provided in  
24 subsections (2) and (3) of this section, the parties to an agreement to  
25 arbitrate or to an arbitration proceeding may waive or vary the  
26 requirements of this chapter to the extent permitted by law.

27 (2) Before a controversy arises that is subject to an agreement to  
28 arbitrate, the parties to the agreement may not:

29 (a) Waive or vary the requirements of section 5(1), 6(1), 8, 17 (1)  
30 or (2), 26, or 28 of this act;

31 (b) Unreasonably restrict the right under section 9 of this act to  
32 notice of the initiation of an arbitration proceeding;

33 (c) Unreasonably restrict the right under section 12 of this act to  
34 disclosure of any facts by a neutral arbitrator; or

35 (d) Waive the right under section 16 of this act of a party to an

1 agreement to arbitrate to be represented by a lawyer at any proceeding  
2 or hearing under this chapter.

3 (3) The parties to an agreement to arbitrate may not waive or vary  
4 the requirements of this section or section 3 (1)(a) or (2), 7, 14, 18,  
5 20 (3) or (4), 22, 23, 24, 25 (1) or (2), 29, 31, 50, or 51 of this  
6 act.

7 NEW SECTION. **Sec. 5.** APPLICATION TO COURT. (1) Except as  
8 otherwise provided in section 28 of this act, an application for  
9 judicial relief under this chapter must be made by motion to the court  
10 and heard in the manner and upon the notice provided by law or rule of  
11 court for making and hearing motions.

12 (2) Notice of an initial motion to the court under this chapter  
13 must be served in the manner provided by law for the service of a  
14 summons in a civil action unless a civil action is already pending  
15 involving the agreement to arbitrate.

16 NEW SECTION. **Sec. 6.** VALIDITY OF AGREEMENT TO ARBITRATE. (1) An  
17 agreement contained in a record to submit to arbitration any existing  
18 or subsequent controversy arising between the parties to the agreement  
19 is valid, enforceable, and irrevocable except upon a ground that exists  
20 at law or in equity for the revocation of contract.

21 (2) The court shall decide whether an agreement to arbitrate exists  
22 or a controversy is subject to an agreement to arbitrate.

23 (3) An arbitrator shall decide whether a condition precedent to  
24 arbitrability has been fulfilled and whether a contract containing a  
25 valid agreement to arbitrate is enforceable.

26 (4) If a party to a judicial proceeding challenges the existence  
27 of, or claims that a controversy is not subject to, an agreement to  
28 arbitrate, the arbitration proceeding may continue pending final  
29 resolution of the issue by the court, unless the court otherwise  
30 orders.

31 NEW SECTION. **Sec. 7.** MOTION TO COMPEL OR STAY ARBITRATION. (1)  
32 On motion of a person showing an agreement to arbitrate and alleging  
33 another person's refusal to arbitrate pursuant to the agreement, the  
34 court shall order the parties to arbitrate if the refusing party does  
35 not appear or does not oppose the motion. If the refusing party

1 opposes the motion, the court shall proceed summarily to decide the  
2 issue. Unless the court finds that there is no enforceable agreement  
3 to arbitrate, it shall order the parties to arbitrate. If the court  
4 finds that there is no enforceable agreement, it may not order the  
5 parties to arbitrate.

6 (2) On motion of a person alleging that an arbitration proceeding  
7 has been initiated or threatened but that there is no agreement to  
8 arbitrate, the court shall proceed summarily to decide the issue. If  
9 the court finds that there is an enforceable agreement to arbitrate, it  
10 shall order the parties to arbitrate. If the court finds that there is  
11 no enforceable agreement, it may not order the parties to arbitrate.

12 (3) The court may not refuse to order arbitration because the claim  
13 subject to arbitration lacks merit or grounds for the claim have not  
14 been established.

15 (4) If a proceeding involving a claim referable to arbitration  
16 under an alleged agreement to arbitrate is pending in court, a motion  
17 under this section must be filed in that court. Otherwise a motion  
18 under this section may be filed in any court as required by section 27  
19 of this act.

20 (5) If a party files a motion with the court to order arbitration  
21 under this section, the court shall on just terms stay any judicial  
22 proceeding that involves a claim alleged to be subject to the  
23 arbitration until the court renders a final decision under this  
24 section.

25 (6) If the court orders arbitration, the court shall on just terms  
26 stay any judicial proceeding that involves a claim subject to the  
27 arbitration. If a claim subject to the arbitration is severable, the  
28 court may sever it and limit the stay to that claim.

29 NEW SECTION. **Sec. 8.** PROVISIONAL REMEDIES. (1) Before an  
30 arbitrator is appointed and is authorized and able to act, the court,  
31 upon motion of a party to an arbitration proceeding and for good cause  
32 shown, may enter an order for provisional remedies to protect the  
33 effectiveness of the arbitration proceeding to the same extent and  
34 under the same conditions as if the controversy were the subject of a  
35 civil action.

36 (2) After an arbitrator is appointed and is authorized and able to  
37 act, the arbitrator may issue such orders for provisional remedies,

1 including interim awards, as the arbitrator finds necessary to protect  
2 the effectiveness of the arbitration proceeding and to promote the fair  
3 and expeditious resolution of the controversy, to the same extent and  
4 under the same conditions as if the controversy were the subject of a  
5 civil action. After an arbitrator is appointed and is authorized and  
6 able to act, a party to an arbitration proceeding may move the court  
7 for a provisional remedy only if the matter is urgent and the  
8 arbitrator is not able to act timely or if the arbitrator cannot  
9 provide an adequate remedy.

10 (3) A motion to a court for a provisional remedy under subsection  
11 (1) or (2) of this section does not waive any right of arbitration.

12 NEW SECTION. **Sec. 9.** INITIATION OF ARBITRATION. (1) A person  
13 initiates an arbitration proceeding by giving notice in a record to the  
14 other parties to the agreement to arbitrate in the agreed manner  
15 between the parties or, in the absence of agreement, by mail certified  
16 or registered, return receipt requested and obtained, or by service as  
17 authorized for the initiation of a civil action. The notice must  
18 describe the nature of the controversy and the remedy sought.

19 (2) Unless a person interposes an objection as to lack or  
20 insufficiency of notice under section 15(3) of this act not later than  
21 the commencement of the arbitration hearing, the person's appearance at  
22 the hearing waives any objection to lack of or insufficiency of notice.

23 NEW SECTION. **Sec. 10.** CONSOLIDATION OF SEPARATE ARBITRATION  
24 PROCEEDINGS. (1) Except as otherwise provided in subsection (3) of  
25 this section, upon motion of a party to an agreement to arbitrate or to  
26 an arbitration proceeding, the court may order consolidation of  
27 separate arbitration proceedings as to all or some of the claims if:

28 (a) There are separate agreements to arbitrate or separate  
29 arbitration proceedings between the same persons or one of them is a  
30 party to a separate agreement to arbitrate or a separate arbitration  
31 proceeding with a third person;

32 (b) The claims subject to the agreements to arbitrate arise in  
33 substantial part from the same transaction or series of related  
34 transactions;

35 (c) The existence of a common issue of law or fact creates the

1 possibility of conflicting decisions in the separate arbitration  
2 proceedings; and

3 (d) Prejudice resulting from a failure to consolidate is not  
4 outweighed by the risk of undue delay or prejudice to the rights of or  
5 hardship to parties opposing consolidation.

6 (2) The court may order consolidation of separate arbitration  
7 proceedings as to certain claims and allow other claims to be resolved  
8 in separate arbitration proceedings.

9 (3) The court may not order consolidation of the claims of a party  
10 to an agreement to arbitrate that prohibits consolidation.

11 NEW SECTION. **Sec. 11.** APPOINTMENT OF ARBITRATOR--SERVICE AS A  
12 NEUTRAL ARBITRATOR. (1) If the parties to an agreement to arbitrate  
13 agree on a method for appointing an arbitrator, that method must be  
14 followed, unless the method fails. If the parties have not agreed on  
15 a method, the agreed method fails, or an arbitrator appointed fails or  
16 is unable to act and a successor has not been appointed, the court, on  
17 motion of a party to the arbitration proceeding, shall appoint the  
18 arbitrator. The arbitrator so appointed has all the powers of an  
19 arbitrator designated in the agreement to arbitrate or appointed under  
20 the agreed method.

21 (2) An arbitrator who has a known, direct, and material interest in  
22 the outcome of the arbitration proceeding or a known, existing, and  
23 substantial relationship with a party may not serve as a neutral  
24 arbitrator.

25 NEW SECTION. **Sec. 12.** DISCLOSURE BY ARBITRATOR. (1) Before  
26 accepting appointment, an individual who is requested to serve as an  
27 arbitrator, after making a reasonable inquiry, shall disclose to all  
28 parties to the agreement to arbitrate and arbitration proceeding and to  
29 any other arbitrators any known facts that a reasonable person would  
30 consider likely to affect the impartiality of the arbitrator in the  
31 arbitration proceeding, including:

32 (a) A financial or personal interest in the outcome of the  
33 arbitration proceeding; and

34 (b) An existing or past relationship with any of the parties to the  
35 agreement to arbitrate or the arbitration proceeding, their counsel or  
36 representatives, witnesses, or the other arbitrators.

1 (2) An arbitrator has a continuing obligation to disclose to all  
2 parties to the agreement to arbitrate and arbitration proceedings and  
3 to any other arbitrators any facts that the arbitrator learns after  
4 accepting appointment that a reasonable person would consider likely to  
5 affect the impartiality of the arbitrator.

6 (3) If an arbitrator discloses a fact required by subsection (1) or  
7 (2) of this section to be disclosed and a party timely objects to the  
8 appointment or continued service of the arbitrator based upon the  
9 disclosure, the objection may be a ground to vacate the award under  
10 section 23(1)(b) of this act.

11 (4) If the arbitrator did not disclose a fact as required by  
12 subsection (1) or (2) of this section, upon timely objection of a  
13 party, an award may be vacated under section 23(1)(b) of this act.

14 (5) An arbitrator appointed as a neutral who does not disclose a  
15 known, direct, and material interest in the outcome of the arbitration  
16 proceeding or a known, existing, and substantial relationship with a  
17 party is presumed to act with evident partiality under section 23(1)(b)  
18 of this act.

19 (6) If the parties to an arbitration proceeding agree to the  
20 procedures of an arbitration organization or any other procedures for  
21 challenges to arbitrators before an award is made, substantial  
22 compliance with those procedures is a condition precedent to a motion  
23 to vacate an award on that ground under section 23(1)(b) of this act.

24 NEW SECTION. **Sec. 13.** ACTION BY MAJORITY. If there is more than  
25 one arbitrator, the powers of the arbitrators must be exercised by a  
26 majority of them.

27 NEW SECTION. **Sec. 14.** IMMUNITY OF ARBITRATOR--COMPETENCY TO  
28 TESTIFY--ATTORNEYS' FEES AND COSTS. (1) An arbitrator or an  
29 arbitration organization acting in that capacity is immune from civil  
30 liability to the same extent as a judge of a court of this state acting  
31 in a judicial capacity.

32 (2) The immunity afforded by this section supplements any other  
33 immunity.

34 (3) If an arbitrator does not make a disclosure required by section  
35 12 of this act, the nondisclosure does not cause a loss of immunity  
36 under this section.

1 (4) In any judicial, administrative, or similar proceeding, an  
2 arbitrator or representative of an arbitration organization is not  
3 competent to testify or required to produce records as to any  
4 statement, conduct, decision, or ruling occurring during the  
5 arbitration proceeding to the same extent as a judge of a court of this  
6 state acting in a judicial capacity. This subsection does not apply:

7 (a) To the extent necessary to determine the claim of an arbitrator  
8 or an arbitration organization or a representative of the arbitration  
9 organization against a party to the arbitration proceeding; or

10 (b) If a party to the arbitration proceeding files a motion to  
11 vacate an award under section 23(1) (a) or (b) of this act and  
12 establishes prima facie that a ground for vacating the award exists.

13 (5) If a person commences a civil action against an arbitrator, an  
14 arbitration organization, or a representative of an arbitration  
15 organization arising from the services of the arbitrator, organization,  
16 or representative or if a person seeks to compel an arbitrator or a  
17 representative of an arbitration organization to testify in violation  
18 of subsection (4) of this section, and the court decides that the  
19 arbitrator, arbitration organization, or representative of an  
20 arbitration organization is immune from civil liability or that the  
21 arbitrator or representative of the organization is incompetent to  
22 testify, the court shall award to the arbitrator, organization, or  
23 representative reasonable attorneys' fees and other reasonable expenses  
24 of litigation.

25 NEW SECTION. **Sec. 15.** ARBITRATION PROCESS. (1) The arbitrator  
26 may conduct the arbitration in such manner as the arbitrator considers  
27 appropriate so as to aid in the fair and expeditious disposition of the  
28 proceeding. The authority conferred upon the arbitrator includes the  
29 power to hold conferences with the parties to the arbitration  
30 proceeding before the hearing and to determine the admissibility,  
31 relevance, materiality, and weight of any evidence.

32 (2) The arbitrator may decide a request for summary disposition of  
33 a claim or particular issue by agreement of all interested parties or  
34 upon request of one party to the arbitration proceeding if that party  
35 gives notice to all other parties to the arbitration proceeding and the  
36 other parties have a reasonable opportunity to respond.

1 (3) The arbitrator shall set a time and place for a hearing and  
2 give notice of the hearing not less than five days before the hearing.  
3 Unless a party to the arbitration proceeding interposes an objection to  
4 lack of or insufficiency of notice not later than the commencement of  
5 the hearing, the party's appearance at the hearing waives the  
6 objection. Upon request of a party to the arbitration proceeding and  
7 for good cause shown, or upon the arbitrator's own initiative, the  
8 arbitrator may adjourn the hearing from time to time as necessary but  
9 may not postpone the hearing to a time later than that fixed by the  
10 agreement to arbitrate for making the award unless the parties to the  
11 arbitration proceeding consent to a later date. The arbitrator may  
12 hear and decide the controversy upon the evidence produced although a  
13 party who was duly notified of the arbitration proceeding did not  
14 appear. The court, on request, may direct the arbitrator to promptly  
15 conduct the hearing and render a timely decision.

16 (4) If an arbitrator orders a hearing under subsection (3) of this  
17 section, the parties to the arbitration proceeding are entitled to be  
18 heard, to present evidence material to the controversy, and to cross-  
19 examine witnesses appearing at the hearing.

20 (5) If there is more than one arbitrator, all of them shall conduct  
21 the hearing under subsection (3) of this section; however, a majority  
22 shall decide any issue and make a final award.

23 (6) If an arbitrator ceases, or is unable, to act during the  
24 arbitration proceeding, a replacement arbitrator must be appointed in  
25 accordance with section 11 of this act to continue the hearing and to  
26 decide the controversy.

27 NEW SECTION. **Sec. 16.** REPRESENTATION BY LAWYER. A party to an  
28 arbitration proceeding may be represented by a lawyer.

29 NEW SECTION. **Sec. 17.** WITNESSES--SUBPOENAS--DEPOSITIONS--  
30 DISCOVERY. (1) An arbitrator may issue a subpoena for the attendance  
31 of a witness and for the production of records and other evidence at  
32 any hearing and may administer oaths. A subpoena must be served in the  
33 manner for service of subpoenas in a civil action and, upon motion to  
34 the court by a party to the arbitration proceeding or the arbitrator,  
35 enforced in the manner for enforcement of subpoenas in a civil action.

1 (2) On request of a party to or a witness in an arbitration  
2 proceeding, an arbitrator may permit a deposition of any witness,  
3 including a witness who cannot be subpoenaed for or is unable to attend  
4 a hearing, to be taken under conditions determined by the arbitrator  
5 for use as evidence in order to make the proceeding fair, expeditious,  
6 and cost-effective.

7 (3) An arbitrator may permit such discovery as the arbitrator  
8 decides is appropriate in the circumstances, taking into account the  
9 needs of the parties to the arbitration proceeding and other affected  
10 persons and the desirability of making the proceeding fair,  
11 expeditious, and cost-effective.

12 (4) If an arbitrator permits discovery under subsection (3) of this  
13 section, the arbitrator may order a party to the arbitration proceeding  
14 to comply with the arbitrator's discovery-related orders, including the  
15 issuance of a subpoena for the attendance of a witness and for the  
16 production of records and other evidence at a discovery proceeding, and  
17 may take action against a party to the arbitration proceeding who does  
18 not comply to the extent permitted by law as if the controversy were  
19 the subject of a civil action in this state.

20 (5) An arbitrator may issue a protective order to prevent the  
21 disclosure of privileged information, confidential information, trade  
22 secrets, and other information protected from disclosure as if the  
23 controversy were the subject of a civil action in this state.

24 (6) All laws compelling a person under subpoena to testify and all  
25 fees for attending a judicial proceeding, a deposition, or a discovery  
26 proceeding as a witness apply to an arbitration proceeding as if the  
27 controversy were the subject of a civil action in this state.

28 (7) The court may enforce a subpoena or discovery-related order for  
29 the attendance of a witness within this state and for the production of  
30 records and other evidence issued by an arbitrator in connection with  
31 an arbitration proceeding in another state upon conditions determined  
32 by the court in order to make the arbitration proceeding fair,  
33 expeditious, and cost-effective. A subpoena or discovery-related order  
34 issued by an arbitrator must be served in the manner provided by law  
35 for service of subpoenas in a civil action in this state and, upon  
36 motion to the court by a party to the arbitration proceeding or the  
37 arbitrator, enforced in the manner provided by law for enforcement of  
38 subpoenas in a civil action in this state.

1           NEW SECTION.   **Sec. 18.**   COURT ENFORCEMENT OF PREAWARD RULING BY  
2   ARBITRATOR.   If an arbitrator makes a preaward ruling in favor of a  
3   party to the arbitration proceeding, the party may request the  
4   arbitrator to incorporate the ruling into an award under section 19 of  
5   this act.   The successful party may file a motion to the court for an  
6   expedited order to confirm the award under section 22 of this act, in  
7   which case the court shall proceed summarily to decide the motion.   The  
8   court shall issue an order to confirm the award unless the court  
9   vacates, modifies, or corrects the award of the arbitrator under  
10   sections 23 and 24 of this act.

11           NEW SECTION.   **Sec. 19.**   AWARD.   (1) An arbitrator shall make a  
12   record of an award.   The record must be authenticated by any arbitrator  
13   who concurs with the award.   The arbitrator or the arbitration  
14   organization shall give notice of the award, including a copy of the  
15   award, to each party to the arbitration proceeding.

16           (2) An award must be made within the time specified by the  
17   agreement to arbitrate or, if not specified therein, within the time  
18   ordered by the court.   The court may extend or the parties to the  
19   arbitration proceeding may agree in a record to extend the time.   The  
20   court or the parties may do so within or after the time specified or  
21   ordered.   A party waives any objection that an award was not timely  
22   made unless the party gives notice of the objection to the arbitrator  
23   before receiving notice of the award.

24           NEW SECTION.   **Sec. 20.**   CHANGE OF AWARD BY ARBITRATOR.   (1) On  
25   motion to an arbitrator by a party to the arbitration proceeding, the  
26   arbitrator may modify or correct an award:

27           (a) Upon the grounds stated in section 24(1) (a) or (c) of this  
28   act;

29           (b) Because the arbitrator has not made a final and definite award  
30   upon a claim submitted by the parties to the arbitration proceeding; or

31           (c) To clarify the award.

32           (2) A motion under subsection (1) of this section must be made and  
33   served on all parties within twenty days after the movant receives  
34   notice of the award.

35           (3) A party to the arbitration proceeding must serve any objections  
36   to the motion within ten days after receipt of the notice.

1 (4) If a motion to the court is pending under section 22, 23, or 24  
2 of this act, the court may submit the claim to the arbitrator to  
3 consider whether to modify or correct the award:

4 (a) Upon the grounds stated in section 24(1) (a) or (c) of this  
5 act;

6 (b) Because the arbitrator has not made a final and definite award  
7 upon a claim submitted by the parties to the arbitration proceeding; or

8 (c) To clarify the award.

9 (5) An award modified or corrected under this section is subject to  
10 sections 22, 23, and 24 of this act.

11 NEW SECTION. **Sec. 21.** REMEDIES--FEES AND EXPENSES OF ARBITRATION  
12 PROCEEDING. (1) An arbitrator may award punitive damages or other  
13 exemplary relief if such an award is authorized under the applicable  
14 law in a civil action involving the same claim and the evidence  
15 produced at the hearing justifies the award under the legal standards  
16 otherwise applicable to the claim.

17 (2) An arbitrator may award attorneys' fees and other reasonable  
18 expenses of arbitration if such an award is authorized by law in a  
19 civil action involving the same claim or by the agreement of the  
20 parties to the arbitration proceeding.

21 (3) As to all remedies other than those authorized by subsections  
22 (1) and (2) of this section, an arbitrator may order such remedies as  
23 the arbitrator considers just and appropriate under the circumstances  
24 of the arbitration proceeding. The fact that such a remedy could not  
25 or would not be granted by the court is not a ground for refusing to  
26 confirm an award under section 22 of this act or for vacating an award  
27 under section 23 of this act.

28 (4) An arbitrator's expenses and fees, together with other  
29 expenses, must be paid as provided in the award.

30 (5) If an arbitrator awards punitive damages or other exemplary  
31 relief under subsection (1) of this section, the arbitrator shall  
32 specify in the award the basis in fact justifying and the basis in law  
33 authorizing the award and state separately the amount of the punitive  
34 damages or other exemplary relief.

35 NEW SECTION. **Sec. 22.** CONFIRMATION OF AWARD. After a party to  
36 the arbitration proceeding receives notice of an award, the party may

1 file a motion with the court for an order confirming the award, at  
2 which time the court shall issue such an order unless the award is  
3 modified or corrected under section 20 or 24 of this act or is vacated  
4 under section 23 of this act.

5 NEW SECTION. **Sec. 23.** VACATING AWARD. (1) Upon motion of a party  
6 to the arbitration proceeding, the court shall vacate an award if:

7 (a) The award was procured by corruption, fraud, or other undue  
8 means;

9 (b) There was:

10 (i) Evident partiality by an arbitrator appointed as a neutral;

11 (ii) Corruption by an arbitrator; or

12 (iii) Misconduct by an arbitrator prejudicing the rights of a party  
13 to the arbitration proceeding;

14 (c) An arbitrator refused to postpone the hearing upon showing of  
15 sufficient cause for postponement, refused to consider evidence  
16 material to the controversy, or otherwise conducted the hearing  
17 contrary to section 15 of this act, so as to prejudice substantially  
18 the rights of a party to the arbitration proceeding;

19 (d) An arbitrator exceeded the arbitrator's powers;

20 (e) There was no agreement to arbitrate, unless the person  
21 participated in the arbitration proceeding without raising the  
22 objection under section 15(3) of this act not later than the  
23 commencement of the arbitration hearing; or

24 (f) The arbitration was conducted without proper notice of the  
25 initiation of an arbitration as required in section 9 of this act so as  
26 to prejudice substantially the rights of a party to the arbitration  
27 proceeding.

28 (2) A motion under this section must be filed within ninety days  
29 after the movant receives notice of the award in a record under section  
30 19 of this act or within ninety days after the movant receives notice  
31 of an arbitrator's award in a record on a motion to modify or correct  
32 an award under section 20 of this act, unless the motion is predicated  
33 upon the ground that the award was procured by corruption, fraud, or  
34 other undue means, in which case it must be filed within ninety days  
35 after such a ground is known or by the exercise of reasonable care  
36 should have been known by the movant.

1 (3) In vacating an award on a ground other than that set forth in  
2 subsection (1)(e) of this section, the court may order a rehearing  
3 before a new arbitrator. If the award is vacated on a ground stated in  
4 subsection (1)(c), (d), or (f) of this section, the court may order a  
5 rehearing before the arbitrator who made the award or the arbitrator's  
6 successor. The arbitrator must render the decision in the rehearing  
7 within the same time as that provided in section 19(2) of this act for  
8 an award.

9 (4) If a motion to vacate an award is denied and a motion to modify  
10 or correct the award is not pending, the court shall confirm the award.

11 NEW SECTION. **Sec. 24.** MODIFICATION OR CORRECTION OF AWARD. (1)

12 Upon motion filed within ninety days after the movant receives notice  
13 of the award in a record under section 19 of this act or within ninety  
14 days after the movant receives notice of an arbitrator's award in a  
15 record on a motion to modify or correct an award under section 20 of  
16 this act, the court shall modify or correct the award if:

17 (a) There was an evident mathematical miscalculation or an evident  
18 mistake in the description of a person, thing, or property referred to  
19 in the award;

20 (b) The arbitrator has made an award on a claim not submitted to  
21 the arbitrator and the award may be corrected without affecting the  
22 merits of the decision upon the claims submitted; or

23 (c) The award is imperfect in a matter of form not affecting the  
24 merits of the decision on the claims submitted.

25 (2) If a motion filed under subsection (1) of this section is  
26 granted, the court shall modify or correct and confirm the award as  
27 modified or corrected. Otherwise, the court shall confirm the award.

28 (3) A motion to modify or correct an award under this section may  
29 be joined with a motion to vacate the award.

30 NEW SECTION. **Sec. 25.** JUDGMENT ON AWARD--ATTORNEYS' FEES AND

31 LITIGATION EXPENSES. (1) Upon granting an order confirming, vacating  
32 without directing a rehearing, modifying, or correcting an award, the  
33 court shall enter a judgment in conformity with the order. The  
34 judgment may be recorded, docketed, and enforced as any other judgment  
35 in a civil action.

1 (2) A court may allow reasonable costs of the motion and subsequent  
2 judicial proceedings.

3 (3) On application of a prevailing party to a contested judicial  
4 proceeding under section 22, 23, or 24 of this act, the court may add  
5 to a judgment confirming, vacating without directing a rehearing,  
6 modifying, or correcting an award, attorneys' fees and other reasonable  
7 expenses of litigation incurred in a judicial proceeding after the  
8 award is made.

9 NEW SECTION. **Sec. 26.** JURISDICTION. (1) A court of this state  
10 having jurisdiction over the dispute and the parties may enforce an  
11 agreement to arbitrate.

12 (2) An agreement to arbitrate providing for arbitration in this  
13 state confers exclusive jurisdiction on the court to enter judgment on  
14 an award under this chapter.

15 NEW SECTION. **Sec. 27.** VENUE. A motion under section 5 of this  
16 act must be filed in the court of the county in which the agreement to  
17 arbitrate specifies the arbitration hearing is to be held or, if the  
18 hearing has been held, in the court of the county in which it was held.  
19 Otherwise, the motion must be filed in any county in which an adverse  
20 party resides or has a place of business or, if no adverse party has a  
21 residence or place of business in this state, in the court of any  
22 county in this state. All subsequent motions must be filed in the  
23 court hearing the initial motion unless the court otherwise directs.

24 NEW SECTION. **Sec. 28.** APPEALS. (1) An appeal may be taken from:

- 25 (a) An order denying a motion to compel arbitration;
- 26 (b) An order granting a motion to stay arbitration;
- 27 (c) An order confirming or denying confirmation of an award;
- 28 (d) An order modifying or correcting an award;
- 29 (e) An order vacating an award without directing a rehearing; or
- 30 (f) A final judgment entered under this chapter.

31 (2) An appeal under this section must be taken as from an order or  
32 a judgment in a civil action.

33 NEW SECTION. **Sec. 29.** UNIFORMITY OF APPLICATION AND CONSTRUCTION.

1 In applying and construing this uniform act, consideration must be  
2 given to the need to promote uniformity of the law with respect to its  
3 subject matter among states that enact it.

4 NEW SECTION. **Sec. 30.** CAPTIONS. Captions used in this act are  
5 not part of the law.

6 NEW SECTION. **Sec. 31.** SAVINGS CLAUSE. This act does not affect  
7 an action or proceeding commenced or right accrued before the effective  
8 date of this act.

9 NEW SECTION. **Sec. 32.** RELATIONSHIP TO ELECTRONIC SIGNATURES IN  
10 GLOBAL AND NATIONAL COMMERCE ACT. The provisions of this chapter  
11 governing the legal effect, validity, and enforceability of electronic  
12 records or electronic signatures, and of contracts performed with the  
13 use of such records or signatures conform to the requirements of  
14 section 102 of the electronic signatures in global and national  
15 commerce act.

16 **Sec. 33.** RCW 3.46.150 and 2001 c 68 s 2 are each amended to read  
17 as follows:

18 (1) Any city, having established a municipal department as provided  
19 in this chapter may, by written notice to the county legislative  
20 authority not less than one year prior to February 1st of the year in  
21 which all district court judges are subject to election, require the  
22 termination of the municipal department created pursuant to this  
23 chapter. A city may terminate a municipal department only at the end  
24 of a four-year judicial term. However, the city may not give the  
25 written notice required by this section unless the city has reached an  
26 agreement with the county under chapter 39.34 RCW under which the  
27 county is to be paid a reasonable amount for costs associated with  
28 prosecution, adjudication, and sentencing in criminal cases filed in  
29 district court as a result of the termination. The agreement shall  
30 provide for periodic review and renewal of the terms of the agreement.  
31 If the municipality and the county are unable to agree on the terms for  
32 renewal of the agreement, they shall be deemed to have entered into an  
33 agreement to submit the issue to arbitration under chapter (~~7-04~~)  
34 7.-- RCW (sections 1 through 32 of this act). Pending conclusion of

1 the arbitration proceeding, the terms of the agreement shall remain in  
2 effect. The municipality and the county have the same rights and are  
3 subject to the same duties as other parties who have agreed to submit  
4 to arbitration under chapter ((7.04)) 7.-- RCW (sections 1 through 32  
5 of this act).

6 (2) A county that wishes to terminate a municipal department of the  
7 district court must provide written notice to the city legislative  
8 authority at least one year prior to the date of the intended  
9 termination.

10 **Sec. 34.** RCW 3.50.800 and 1984 c 258 s 202 are each amended to  
11 read as follows:

12 (1) If a municipality has, prior to July 1, 1984, repealed in its  
13 entirety that portion of its municipal code defining crimes but  
14 continues to hear and determine traffic infraction cases under chapter  
15 46.63 RCW in a municipal court, the municipality and the appropriate  
16 county shall, prior to January 1, 1985, enter into an agreement under  
17 chapter 39.34 RCW under which the county is to be paid a reasonable  
18 amount for costs incurred after January 1, 1985, associated with  
19 prosecution, adjudication, and sentencing in criminal cases filed in  
20 district court as a result of the repeal. If the municipality and the  
21 county cannot come to an agreement within the time prescribed by this  
22 section, they shall be deemed to have entered into an agreement to  
23 submit the issue to arbitration pursuant to chapter ((7.04)) 7.-- RCW  
24 (sections 1 through 32 of this act). The municipality and the county  
25 have the same rights and are subject to the same duties as other  
26 parties who have agreed to submit to arbitration under chapter ((7.04))  
27 7.-- RCW (sections 1 through 32 of this act).

28 (2) The agreement between the municipality and the county shall  
29 include provisions for periodic review and renewal of the terms of the  
30 agreement. If the municipality and the county are unable to agree on  
31 the terms for renewal of the agreement, they shall be deemed to have  
32 entered into an agreement to submit the issue to arbitration under  
33 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
34 conclusion of the arbitration proceeding, the terms of the agreement  
35 shall remain in effect. The municipality and the county have the same  
36 rights as other parties who have agreed to submit to arbitration under  
37 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

1       **Sec. 35.** RCW 3.50.805 and 1984 c 258 s 203 are each amended to  
2 read as follows:

3       (1) A municipality operating a municipal court under this chapter  
4 shall not terminate that court unless the municipality has reached an  
5 agreement with the appropriate county or another municipality under  
6 chapter 39.34 RCW under which the county or municipality is to be paid  
7 a reasonable amount for costs associated with prosecution,  
8 adjudication, and sentencing in criminal cases filed in district or  
9 municipal court as a result of the termination. The agreement shall  
10 provide for periodic review and renewal of the terms of the agreement.  
11 If the municipality and the county or municipality are unable to agree  
12 on the terms for renewal of the agreement, they shall be deemed to have  
13 entered into an agreement to submit the issue to arbitration under  
14 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
15 conclusion of the arbitration proceeding, the terms of the agreement  
16 shall remain in effect. The municipality and the county or  
17 municipality have the same rights and are subject to the same duties as  
18 other parties who have agreed to submit to arbitration under chapter  
19 ((7.04)) 7.-- RCW (sections 1 through 32 of this act). A municipality  
20 that has entered into agreements with other municipalities that have  
21 terminated their municipal courts may not thereafter terminate its  
22 court unless each municipality has reached an agreement with the  
23 appropriate county in accordance with this section.

24       (2) A municipality operating a municipal court under this chapter  
25 may not repeal in its entirety that portion of its municipal code  
26 defining crimes while retaining the court's authority to hear and  
27 determine traffic infractions under chapter 46.63 RCW unless the  
28 municipality has reached an agreement with the county under chapter  
29 39.34 RCW under which the county is to be paid a reasonable amount for  
30 costs associated with prosecution, adjudication, and sentencing in  
31 criminal cases filed in district court as a result of the repeal. The  
32 agreement shall provide for periodic review and renewal of the terms of  
33 the agreement. If the municipality and the county are unable to agree  
34 on the terms for renewal of the agreement, they shall be deemed to have  
35 entered into an agreement to submit the issue to arbitration under  
36 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
37 conclusion of the arbitration proceeding, the terms of the agreement  
38 shall remain in effect. The municipality and the county have the same

1 rights and are subject to the same duties as other parties who have  
2 agreed to submit to arbitration under chapter ((7.04)) 7.-- RCW  
3 (sections 1 through 32 of this act).

4 (3) A municipality operating a municipal court under this chapter  
5 may not repeal a provision of its municipal code which defines a crime  
6 equivalent to an offense listed in RCW 46.63.020 unless the  
7 municipality has reached an agreement with the county under chapter  
8 39.34 RCW under which the county is to be paid a reasonable amount for  
9 costs associated with prosecution, adjudication, and sentencing in  
10 criminal cases filed in district court as a result of the repeal. The  
11 agreement shall provide for periodic review and renewal of the terms of  
12 the agreement. If the municipality and the county are unable to agree  
13 on the terms for renewal of the agreement, they shall be deemed to have  
14 entered into an agreement to submit the issue to arbitration under  
15 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
16 conclusion of the arbitration proceeding, the terms of the agreement  
17 shall remain in effect. The municipality and the county have the same  
18 rights and are subject to the same duties as other parties who have  
19 agreed to submit to arbitration under chapter ((7.04)) 7.-- RCW  
20 (sections 1 through 32 of this act).

21 **Sec. 36.** RCW 15.49.071 and 1989 c 354 s 77 are each amended to  
22 read as follows:

23 (1) When a buyer is damaged by the failure of any seed covered by  
24 this chapter to produce or perform as represented by the required  
25 label, by warranty, or as a result of negligence, the buyer, as a  
26 prerequisite to maintaining a legal action against the dealer of such  
27 seed, shall have first provided for the arbitration of the claim. Any  
28 statutory period of limitations with respect to such claim shall be  
29 tolled from the date arbitration proceedings are instituted until ten  
30 days after the date on which the arbitration award becomes final.

31 (2) Similarly, no such claim may be asserted as a counterclaim or  
32 defense in any action brought by a dealer against a buyer until the  
33 buyer has first provided for arbitration of the claim. Upon the  
34 buyer's filing of a written notice of intention to assert such a claim  
35 as a counterclaim or defense in the action accompanied by a copy of the  
36 buyer's complaint in arbitration filed as provided in this chapter, the  
37 action shall be stayed, and any applicable statute of limitations shall

1 be tolled with respect to such claim from the date arbitration  
2 proceedings are instituted until ten days after the arbitration award  
3 becomes final.

4 (3) Conspicuous language calling attention to the requirement for  
5 arbitration under this section shall be referenced or included on the  
6 analysis label required under RCW 15.49.011 through 15.49.101.

7 (4) If the parties agree to submit the claim to arbitration and to  
8 be bound by the arbitration award, then the arbitration shall be  
9 subject to chapter ~~((7.04))~~ 7.-- RCW (sections 1 through 32 of this  
10 act), and RCW 15.49.081 through 15.49.111 will not apply to the  
11 arbitration. If the parties do not so agree, then the buyer may  
12 provide for mandatory arbitration by the arbitration committee under  
13 RCW 15.49.081 through 15.49.111. An award rendered in such mandatory  
14 arbitration shall not be binding upon the parties and any trial on any  
15 claim so arbitrated shall be de novo.

16 (5) This section applies only to claims, or counterclaims, where  
17 the relief sought is, or includes, a monetary amount in excess of two  
18 thousand dollars. All claims for two thousand dollars or less shall be  
19 commenced in either district court or small claims court.

20 **Sec. 37.** RCW 35.20.010 and 2001 c 68 s 3 are each amended to read  
21 as follows:

22 (1) There is hereby created and established in each incorporated  
23 city of this state having a population of more than four hundred  
24 thousand inhabitants, as shown by the federal or state census,  
25 whichever is the later, a municipal court, which shall be styled "The  
26 Municipal Court of . . . . . (name of city)," hereinafter designated  
27 and referred to as the municipal court, which court shall have  
28 jurisdiction and shall exercise all the powers by this chapter declared  
29 to be vested in such municipal court, together with such powers and  
30 jurisdiction as is generally conferred in this state either by common  
31 law or statute.

32 (2) A municipality operating a municipal court under this section  
33 may terminate that court if the municipality has reached an agreement  
34 with the county under chapter 39.34 RCW under which the county is to be  
35 paid a reasonable amount for costs associated with prosecution,  
36 adjudication, and sentencing in criminal cases filed in district court  
37 as a result of the termination. The agreement shall provide for

1 periodic review and renewal of the terms of the agreement. If the  
2 municipality and the county are unable to agree on the terms for  
3 renewal of the agreement, they shall be deemed to have entered into an  
4 agreement to submit the issue to arbitration under chapter ((7.04))  
5 7.-- RCW (sections 1 through 32 of this act). Pending conclusion of  
6 the arbitration proceeding, the terms of the agreement shall remain in  
7 effect. The municipality and the county have the same rights and are  
8 subject to the same duties as other parties who have agreed to submit  
9 to arbitration under chapter ((7.04)) 7.-- RCW (sections 1 through 32  
10 of this act).

11 (3) A city that has entered into an agreement for court services  
12 with the county must provide written notice of the intent to terminate  
13 the agreement to the county legislative authority not less than one  
14 year prior to February 1st of the year in which all district court  
15 judges are subject to election. A city that terminates an agreement  
16 for court services to be provided by a district court may terminate the  
17 agreement only at the end of a four-year district court judicial term.

18 (4) A county that wishes to terminate an agreement with a city for  
19 the provision of court services must provide written notice of the  
20 intent to terminate the agreement to the city legislative authority not  
21 less than one year prior to the expiration of the agreement.

22 **Sec. 38.** RCW 35.22.425 and 1984 c 258 s 204 are each amended to  
23 read as follows:

24 A city of the first class operating a municipal court may not  
25 repeal in its entirety that portion of its municipal code defining  
26 crimes or repeal a provision of its municipal code which defines a  
27 crime equivalent to an offense listed in RCW 46.63.020 unless the  
28 municipality has reached an agreement with the appropriate county under  
29 chapter 39.34 RCW under which the county is to be paid a reasonable  
30 amount for costs associated with prosecution, adjudication, and  
31 sentencing in criminal cases filed in district court as a result of the  
32 repeal. The agreement shall include provisions for periodic review and  
33 renewal of the terms of the agreement. If the municipality and the  
34 county are unable to agree on the terms for renewal of the agreement,  
35 they shall be deemed to have entered into an agreement to submit the  
36 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
37 through 32 of this act). Pending conclusion of the arbitration

1 proceeding, the terms of the agreement shall remain in effect. The  
2 municipality and the county have the same rights and are subject to the  
3 same duties as other parties who have agreed to submit to arbitration  
4 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

5 **Sec. 39.** RCW 35.23.555 and 1994 c 81 s 52 are each amended to read  
6 as follows:

7 A city of the second class operating a municipal court may not  
8 repeal in its entirety that portion of its municipal code defining  
9 crimes or repeal a provision of its municipal code which defines a  
10 crime equivalent to an offense listed in RCW 46.63.020 unless the  
11 municipality has reached an agreement with the appropriate county under  
12 chapter 39.34 RCW under which the county is to be paid a reasonable  
13 amount for costs associated with prosecution, adjudication, and  
14 sentencing in criminal cases filed in district court as a result of the  
15 repeal. The agreement shall include provisions for periodic review and  
16 renewal of the terms of the agreement. If the municipality and the  
17 county are unable to agree on the terms for renewal of the agreement,  
18 they shall be deemed to have entered into an agreement to submit the  
19 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
20 through 32 of this act). Pending conclusion of the arbitration  
21 proceeding, the terms of the agreement shall remain in effect. The  
22 municipality and the county have the same rights and are subject to the  
23 same duties as other parties who have agreed to submit to arbitration  
24 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

25 **Sec. 40.** RCW 35.27.515 and 1984 c 258 s 207 are each amended to  
26 read as follows:

27 A town operating a municipal court may not repeal in its entirety  
28 that portion of its municipal code defining crimes or repeal a  
29 provision of its municipal code which defines a crime equivalent to an  
30 offense listed in RCW 46.63.020 unless the municipality has reached an  
31 agreement with the appropriate county under chapter 39.34 RCW under  
32 which the county is to be paid a reasonable amount for costs associated  
33 with prosecution, adjudication, and sentencing in criminal cases filed  
34 in district court as a result of the repeal. The agreement shall  
35 include provisions for periodic review and renewal of the terms of the  
36 agreement. If the municipality and the county are unable to agree on

1 the terms for renewal of the agreement, they shall be deemed to have  
2 entered into an agreement to submit the issue to arbitration under  
3 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act). Pending  
4 conclusion of the arbitration proceeding, the terms of the agreement  
5 shall remain in effect. The municipality and the county have the same  
6 rights and are subject to the same duties as other parties who have  
7 agreed to submit to arbitration under chapter ((7.04)) 7.-- RCW  
8 (sections 1 through 32 of this act).

9 **Sec. 41.** RCW 35.30.100 and 1984 c 258 s 208 are each amended to  
10 read as follows:

11 A city operating a municipal court may not repeal in its entirety  
12 that portion of its municipal code defining crimes unless the  
13 municipality has reached an agreement with the appropriate county under  
14 chapter 39.34 RCW under which the county is to be paid a reasonable  
15 amount for costs associated with prosecution, adjudication, and  
16 sentencing in criminal cases filed in district court as a result of the  
17 repeal. The agreement shall include provisions for periodic review and  
18 renewal of the terms of the agreement. If the municipality and the  
19 county are unable to agree on the terms for renewal of the agreement,  
20 they shall be deemed to have entered into an agreement to submit the  
21 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
22 through 32 of this act). Pending conclusion of the arbitration  
23 proceeding, the terms of the agreement shall remain in effect. The  
24 municipality and the county have the same rights and are subject to the  
25 same duties as other parties who have agreed to submit to arbitration  
26 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

27 **Sec. 42.** RCW 35A.11.200 and 1984 c 258 s 209 are each amended to  
28 read as follows:

29 A code city operating a municipal court may not repeal in its  
30 entirety that portion of its municipal code defining crimes unless the  
31 municipality has reached an agreement with the appropriate county under  
32 chapter 39.34 RCW under which the county is to be paid a reasonable  
33 amount for costs associated with prosecution, adjudication, and  
34 sentencing in criminal cases filed in district court as a result of the  
35 repeal. The agreement shall include provisions for periodic review and  
36 renewal of the terms of the agreement. If the municipality and the

1 county are unable to agree on the terms for renewal of the agreement,  
2 they shall be deemed to have entered into an agreement to submit the  
3 issue to arbitration under chapter ((7.04)) 7.-- RCW (sections 1  
4 through 32 of this act). Pending conclusion of the arbitration  
5 proceeding, the terms of the agreement shall remain in effect. The  
6 municipality and the county have the same rights and are subject to the  
7 same duties as other parties who have agreed to submit to arbitration  
8 under chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

9 **Sec. 43.** RCW 46.96.150 and 1994 c 274 s 2 are each amended to read  
10 as follows:

11 (1) Within thirty days after receipt of the notice under RCW  
12 46.96.140, or within thirty days after the end of an appeal procedure  
13 provided by the manufacturer, whichever is greater, a new motor vehicle  
14 dealer so notified or entitled to notice may file a petition with the  
15 department protesting the proposed establishment or relocation. The  
16 petition shall contain a short statement setting forth the reasons for  
17 the dealer's objection to the proposed establishment or relocation.  
18 Upon the filing of a protest and the receipt of the filing fee, the  
19 department shall promptly notify the manufacturer that a timely protest  
20 has been filed and shall request the appointment of an administrative  
21 law judge under chapter 34.12 RCW to conduct a hearing. The  
22 manufacturer shall not establish or relocate the new motor vehicle  
23 dealer until the administrative law judge has held a hearing and has  
24 determined that there is good cause for permitting the proposed  
25 establishment or relocation. When more than one protest is filed  
26 against the establishment or relocation of the same dealer, the  
27 administrative law judge shall consolidate the hearings to expedite  
28 disposition of the matter.

29 (2) If a manufacturer provides in the franchise agreement or by  
30 written statement distributed and provided to its dealers for  
31 arbitration under the ((Washington)) Uniform Arbitration Act, chapter  
32 ((7.04)) 7.-- RCW (sections 1 through 32 of this act), as a mechanism  
33 for resolving disputes relating to the establishment of an additional  
34 new motor vehicle dealer or the relocation of a new motor vehicle  
35 dealer, then the provisions of this section and RCW 46.96.170 relating  
36 to hearings by an administrative law judge do not apply, and a dispute  
37 regarding the establishment of an additional new motor vehicle dealer

1 or the relocation of an existing new motor vehicle dealer shall be  
2 determined in an arbitration proceeding conducted in accordance with  
3 the ((Washington)) Uniform Arbitration Act, chapter ((7.04)) 7.-- RCW  
4 (sections 1 through 32 of this act). The thirty-day period for filing  
5 a protest under this section still applies except that the protesting  
6 dealer shall file his protest with the manufacturer within thirty days  
7 after receipt of the notice under RCW 46.96.140.

8 (3) The dispute shall be referred for arbitration to such  
9 arbitrator as may be agreed upon by the parties to the dispute. If the  
10 parties cannot agree upon a single arbitrator within thirty days from  
11 the date the protest is filed, the protesting dealer will select an  
12 arbitrator, the manufacturer will select an arbitrator, and the two  
13 arbitrators will then select a third. If a third arbitrator is not  
14 agreed upon within thirty days, any party may apply to the superior  
15 court, and the judge of the superior court having jurisdiction will  
16 appoint the third arbitrator. The protesting dealer will pay the  
17 arbitrator selected by him, and the manufacturer will pay the  
18 arbitrator it selected. The expense of the third arbitrator and all  
19 other expenses of arbitration will be shared equally by the parties.  
20 Attorneys' fees and fees paid to expert witnesses are not expenses of  
21 arbitration and will be paid by the person incurring them.

22 (4) Notwithstanding the terms of a franchise or written statement  
23 of the manufacturer and notwithstanding the terms of a waiver, the  
24 arbitration will take place in the state of Washington in the county  
25 where the protesting dealer has his principal place of business. RCW  
26 46.96.160 applies to a determination made by the arbitrator or  
27 arbitrators in determining whether good cause exists for permitting the  
28 proposed establishment or relocation of a new motor vehicle dealer, and  
29 the manufacturer has the burden of proof to establish that good cause  
30 exists for permitting the proposed establishment or relocation. After  
31 a hearing has been held, the arbitrator or arbitrators shall render a  
32 decision as expeditiously as possible, but in any event not later than  
33 one hundred twenty days from the date the arbitrator or arbitrators are  
34 selected or appointed. The manufacturer shall not establish or  
35 relocate the new motor vehicle dealer until the arbitration hearing has  
36 been held and the arbitrator or arbitrators have determined that there  
37 is good cause for permitting the proposed establishment or relocation.  
38 The written decision of the arbitrator is binding upon the parties

1 unless modified, corrected, or vacated under the Washington Arbitration  
2 Act. Any party may appeal the decision of the arbitrator under the  
3 ((Washington)) Uniform Arbitration Act, chapter ((7.04)) 7.-- RCW  
4 (sections 1 through 32 of this act).

5 (5) If the franchise agreement or the manufacturer's written  
6 statement distributed and provided to its dealers does not provide for  
7 arbitration under the ((Washington)) Uniform Arbitration Act as a  
8 mechanism for resolving disputes relating to the establishment of an  
9 additional new motor vehicle dealer or the relocation of a new motor  
10 vehicle dealer, then the hearing provisions of this section and RCW  
11 46.96.170 apply. Nothing in this section is intended to preclude a new  
12 motor vehicle dealer from electing to use any other dispute resolution  
13 mechanism offered by a manufacturer.

14 **Sec. 44.** RCW 49.66.090 and 1973 2nd ex.s. c 3 s 7 are each amended  
15 to read as follows:

16 In the event that a health care activity and an employees'  
17 bargaining unit shall reach an impasse, the matters in dispute shall be  
18 submitted to a board of arbitration composed of three arbitrators for  
19 final and binding resolution. The board shall be selected in the  
20 following manner: Within ten days, the employer shall appoint one  
21 arbitrator and the employees shall appoint one arbitrator. The two  
22 arbitrators so selected and named shall within ten days agree upon and  
23 select the name of a third arbitrator who shall act as chairman. If,  
24 upon the expiration of the period allowed therefor the arbitrators are  
25 unable to agree on the selection of a third arbitrator, such arbitrator  
26 shall be appointed at the request of either party in accordance with  
27 ((the provisions of RCW 7.04.050)) section 11 of this act, and ((he))  
28 that person shall act as ((chairman)) chair of the arbitration board.

29 **Sec. 45.** RCW 59.18.320 and 1973 1st ex.s. c 207 s 32 are each  
30 amended to read as follows:

31 (1) The landlord and tenant may agree, in writing, except as  
32 provided in RCW 59.18.230(2)(e), to submit to arbitration, in  
33 conformity with the provisions of this section, any controversy arising  
34 under the provisions of this chapter, except the following:

35 (a) Controversies regarding the existence of defects covered in

1 subsections (1) and (2) of RCW 59.18.070: PROVIDED, That this  
2 exception shall apply only before the implementation of any remedy by  
3 the tenant;

4 (b) Any situation where court action has been started by either  
5 landlord or tenant to enforce rights under this chapter; when the court  
6 action substantially affects the controversy, including but not limited  
7 to:

8 (i) Court action pursuant to subsections (2) and (3) of RCW  
9 59.18.090 and subsections (1) and (2) of RCW 59.18.160; and

10 (ii) Any unlawful detainer action filed by the landlord pursuant to  
11 chapter 59.12 RCW.

12 (2) The party initiating arbitration under subsection (1) of this  
13 section shall give reasonable notice to the other party or parties.

14 (3) Except as otherwise provided in this section, the arbitration  
15 process shall be administered by any arbitrator agreed upon by the  
16 parties at the time the dispute arises: PROVIDED, That the procedures  
17 shall comply with the requirements of chapter ~~((7.04))~~ 7.-- RCW  
18 (sections 1 through 32 of this act) (relating to arbitration) and of  
19 this chapter.

20 **Sec. 46.** RCW 59.18.330 and 1973 1st ex.s. c 207 s 33 are each  
21 amended to read as follows:

22 (1) Unless otherwise mutually agreed to, in the event a controversy  
23 arises under RCW 59.18.320 the landlord or tenant, or both, shall  
24 complete an application for arbitration and deliver it to the selected  
25 arbitrator.

26 (2) The arbitrator so designated shall schedule a hearing to be  
27 held no later than ten days following receipt of notice of the  
28 controversy, except as provided in RCW 59.18.350.

29 (3) The arbitrator shall conduct public or private hearings.  
30 Reasonable notice of such hearings shall be given to the parties, who  
31 shall appear and be heard either in person or by counsel or other  
32 representative. Hearings shall be informal and the rules of evidence  
33 prevailing in judicial proceedings shall not be binding. A recording  
34 of the proceedings may be taken. Any oral or documentary evidence and  
35 other data deemed relevant by the arbitrator may be received in  
36 evidence. The arbitrator shall have the power to administer oaths, to  
37 issue subpoenas, to require the attendance of witnesses and the

1 production of such books, papers, contracts, agreements, and documents  
2 as may be deemed by the arbitrator material to a just determination of  
3 the issues in dispute. If any person refuses to obey such subpoena or  
4 refuses to be sworn to testify, or any witness, party, or attorney is  
5 guilty of any contempt while in attendance at any hearing held  
6 hereunder, the arbitrator may invoke the jurisdiction of any superior  
7 court, and such court shall have jurisdiction to issue an appropriate  
8 order. A failure to obey such order may be punished by the court as a  
9 contempt thereof.

10 (4) Within five days after conclusion of the hearing, the  
11 arbitrator shall make a written decision upon the issues presented, a  
12 copy of which shall be mailed by certified mail or otherwise delivered  
13 to the parties or their designated representatives. The determination  
14 of the dispute made by the arbitrator shall be final and binding upon  
15 both parties.

16 (5) If a defective condition exists which affects more than one  
17 dwelling unit in a similar manner, the arbitrator may consolidate the  
18 issues of fact common to those dwelling units in a single proceeding.

19 (6) Decisions of the arbitrator shall be enforced or appealed  
20 according to the provisions of chapter (~~7.04~~) 7.-- RCW (sections 1  
21 through 32 of this act).

22 **Sec. 47.** RCW 59.20.260 and 1984 c 58 s 13 are each amended to read  
23 as follows:

24 (1) The landlord and tenant may agree in writing to submit a  
25 controversy arising under this chapter to arbitration. The agreement  
26 shall contain the name of the arbitrator agreed upon by the parties or  
27 the process for selecting the arbitrator.

28 (2) The arbitration shall be administered under this chapter and  
29 chapter (~~7.04~~) 7.-- RCW (sections 1 through 32 of this act).

30 **Sec. 48.** RCW 59.20.270 and 1984 c 58 s 14 are each amended to read  
31 as follows:

32 (1) If the landlord and tenant agree to submit the matter to  
33 arbitration, the parties shall complete an application for arbitration  
34 and deliver it to the selected arbitrator.

35 (2) The arbitrator shall schedule a hearing to be held no later  
36 than ten days following receipt of the application.

1 (3) Reasonable notice of the hearings shall be given to the  
2 parties, who shall appear and be heard either in person, by counsel, or  
3 by other representative. Hearings shall be informal and the rules of  
4 evidence prevailing in judicial proceedings shall not be binding.  
5 Hearings may be public or private. The proceedings may be recorded.  
6 Any oral or documentary evidence and other data deemed relevant by the  
7 arbitrator may be received in evidence. The arbitrator may administer  
8 oaths, issue subpoenas, and require the attendance of witnesses and the  
9 production of books, papers, contracts, agreements, and documents  
10 deemed by the arbitrator to be material to a just determination of the  
11 issues in dispute. If a person refuses to obey a subpoena or refuses  
12 to be sworn to testify, or any witness, party, or attorney is guilty of  
13 any contempt while in attendance at any hearing held under this  
14 section, the arbitrator may invoke the jurisdiction of any district or  
15 superior court, and the court shall have jurisdiction to issue an  
16 appropriate order. Failure to obey the order may be punished by the  
17 court as contempt.

18 (4) Within five days after the hearing, the arbitrator shall make  
19 a written decision upon the issues presented. A copy of the decision  
20 shall be mailed by certified mail or otherwise delivered to the parties  
21 or their designated representatives. The decision of the arbitrator  
22 shall be final and binding upon all parties.

23 (5) If a dispute exists affecting more than one tenant in a similar  
24 manner, the arbitrator may with the consent of the parties consolidate  
25 the cases into a single proceeding.

26 (6) Decisions of the arbitrator shall be enforced or appealed under  
27 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act).

28 **Sec. 49.** RCW 70.87.205 and 1983 c 123 s 23 are each amended to  
29 read as follows:

30 (1) Disputes arising under RCW 70.87.200(2) shall be resolved by  
31 arbitration. The request shall be sent by certified mail.

32 (2) The department shall appoint one arbitrator; the municipality  
33 shall appoint one arbitrator; and the arbitrators chosen by the  
34 department and the municipality shall appoint the third arbitrator. If  
35 the two arbitrators cannot agree on the third arbitrator, the presiding  
36 judge of the Thurston county superior court, or his or her designee,  
37 shall appoint the third arbitrator.

1 (3) The arbitration shall be held pursuant to the procedures in  
2 chapter ((7.04)) 7.-- RCW (sections 1 through 32 of this act), except  
3 that ((RCW 7.04.220)) section 28(1)(f) of this act shall not apply.  
4 The decision of the arbitrators is final and binding on the parties.  
5 Neither party may appeal a decision to any court.

6 (4) A party may petition the Thurston county superior court to  
7 enforce a decision of the arbitrators.

8 NEW SECTION. Sec. 50. REPEALER. The following acts or parts of  
9 acts are each repealed:

10 (1) RCW 7.04.010 (Arbitration authorized) and 1947 c 209 s 1 & 1943  
11 c 138 s 1;

12 (2) RCW 7.04.020 (Applications in writing--How heard--Jurisdiction)  
13 and 1982 c 122 s 1 & 1943 c 138 s 2;

14 (3) RCW 7.04.030 (Stay of action pending arbitration) and 1943 c  
15 138 s 3;

16 (4) RCW 7.04.040 (Motion to compel arbitration--Notice and  
17 hearing--Motion for stay) and 1943 c 138 s 4;

18 (5) RCW 7.04.050 (Appointment of arbitrators by court) and 1943 c  
19 138 s 5;

20 (6) RCW 7.04.060 (Notice of intention to arbitrate--Contents) and  
21 1943 c 138 s 6;

22 (7) RCW 7.04.070 (Hearing by arbitrators) and 1943 c 138 s 7;

23 (8) RCW 7.04.080 (Failure of party to appear no bar to hearing and  
24 determination) and 1943 c 138 s 8;

25 (9) RCW 7.04.090 (Time of making award--Extension--Failure to make  
26 award when required) and 1985 c 265 s 1 & 1943 c 138 s 9;

27 (10) RCW 7.04.100 (Representation by attorney) and 1943 c 138 s 10;

28 (11) RCW 7.04.110 (Witnesses--Compelling attendance) and 1943 c 138  
29 s 11;

30 (12) RCW 7.04.120 (Depositions) and 1943 c 138 s 12;

31 (13) RCW 7.04.130 (Order to preserve property or secure  
32 satisfaction of award) and 1943 c 138 s 13;

33 (14) RCW 7.04.140 (Form of award--Copies to parties) and 1943 c 138  
34 s 14;

35 (15) RCW 7.04.150 (Confirmation of award by court) and 1982 c 122  
36 s 2 & 1943 c 138 s 15;

- 1 (16) RCW 7.04.160 (Vacation of award--Rehearing) and 1943 c 138 s  
2 16;
- 3 (17) RCW 7.04.170 (Modification or correction of award by court)  
4 and 1943 c 138 s 17;
- 5 (18) RCW 7.04.175 (Modification or correction of award by  
6 arbitrators) and 1985 c 265 s 2;
- 7 (19) RCW 7.04.180 (Notice of motion to vacate, modify, or correct  
8 award--Stay) and 1943 c 138 s 18;
- 9 (20) RCW 7.04.190 (Judgment--Costs) and 1943 c 138 s 19;
- 10 (21) RCW 7.04.200 (Judgment roll--Docketing) and 1943 c 138 s 20;
- 11 (22) RCW 7.04.210 (Effect of judgment) and 1943 c 138 s 21; and
- 12 (23) RCW 7.04.220 (Appeal) and 1943 c 138 s 22.

13 NEW SECTION. **Sec. 51.** This act takes effect January 1, 2006.

14 NEW SECTION. **Sec. 52.** Sections 1 through 32 of this act  
15 constitute a new chapter in Title 7 RCW."

SHB 1054 - S COMM AMD  
By Committee on Judiciary

**ADOPTED 04/05/2005**

16 On page 1, line 1 of the title, after "arbitration act;" strike the  
17 remainder of the title and insert "amending RCW 3.46.150, 3.50.800,  
18 3.50.805, 15.49.071, 35.20.010, 35.22.425, 35.23.555, 35.27.515,  
19 35.30.100, 35A.11.200, 46.96.150, 49.66.090, 59.18.320, 59.18.330,  
20 59.20.260, 59.20.270, and 70.87.205; adding a new chapter to Title 7  
21 RCW; repealing RCW 7.04.010, 7.04.020, 7.04.030, 7.04.040, 7.04.050,  
22 7.04.060, 7.04.070, 7.04.080, 7.04.090, 7.04.100, 7.04.110, 7.04.120,  
23 7.04.130, 7.04.140, 7.04.150, 7.04.160, 7.04.170, 7.04.175, 7.04.180,  
24 7.04.190, 7.04.200, 7.04.210, and 7.04.220; and providing an effective  
25 date."

--- END ---